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Judge: Timothy W. Dore
Chapter 13
Hearing Date: December 7, 2022
Hearing Location: Seattle Bankruptcy
Court
Response Date: November 30, 2022

WESTERN DISTRICT OF WASHINGTON BANKRUPTCY COURT

IN RE

Billie Jean Harris

NO. 22-11028

OBJECTION TO CLAIM #3

I. INTRODUCTION AND RELIEF REQUESTED

The debtor, Billie Jean Harris, hereby objects to the Claim filed on behalf of Deutsche Bank National Trust Company in this case.¹ The debtor first objects some fees and charges claimed by Deutsche Bank that were waived in prior litigation. Specifically, pre-judgment interest, certain pre-judgment attorney fees and related charges when it obtained a judgment in the total amount of \$472,840.79. Second the debtor objects to further additions to the claim

¹ The full name is Deutsche Bank National Trust Company, as Trustee for Ameriquest Mortgage Securities Inc., Asset-Backed Pass-Through Certificates, Series 2004-R5 (hereinafter “Deutsche Bank”).

OBJECTION TO CLAIM

1 that do not comply with the requirements of the operative judgment.²

2

II. FACTS

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A. DEUTSCHE BANK HAS ADDED TO ITS CLAIMS VARIOUS FEES AND

4 CHARGED INCURRED PRIOR TO ENTRY OF JUDGMENT THAT WERE

5 NOT INCLUDED IN THE JUDGMENT.

6 The claimant herein, filed an action for judicial foreclosure against Curtis Harris and

7 Billie Jean Harris. This eventually resulted in an order for summary judgment being entered

8 in the amount of \$472,840.79 on April 7, 2021. In moving for this relief, Deutsche Bank

9 asked that judgment be entered immediately and that the matter not be set for trial on some

10 fees and costs that the Court ruled were not adequately supported by evidence in the summary

11 judgment motion and related declarations. In doing so, Deutsche Bank avoided the expense

12 and delay associated with a trial regarding these additional fees and costs that were not

13 allowed by the court at summary judgment.

14

15 Now, over a year after the entry of this judgment, and having enjoyed the benefit of

16 immediate entry of judgment, Deutsche Bank is now claiming pre-judgment interest and pre-

17 judgment fees and costs that were not granted in the King County Superior Court Proceeding.

18 These specific charges are the

19

- 20 • Pre-Judgment Interest in the amount of \$12,596.07
- 21 • Pre-Judgment Escrow Advances of \$5,082.72
- 22 • Pre-Judgment Costs and Fees of \$8,794.56

23 These improper charges total: \$26,473.35 and should be subtracted from the claim.

24 ² In filing this objection, the debtor, seeks to reserve her right to object wholistically to the claim based on

25 further theories that may be developed.

1 Further, the claimant is claiming late fees after the loan has been accelerated and
2 reduced to a judgment. The late fees in the amount of \$74.87 each month after entry of
3 judgment is improper and should be disallowed. This totals two months for April of 2021 and
4 May of 2021.

5 **B. POST-JUDGMENT ADDITIONS**

6 In paragraph 3 and 6 of the judgment, the judgment allows for additions to the
7 judgment, but requires that those additions be (a) additions to the judgment and (b) be made
8 by way of Declaration of Counsel, and notice given to the defendants. Deutsche Bank has not
9 provided any declaration on notice to the defendants of these charges in the Superior Court
10 case.

11 For example, it appears that the Claimant is seeking late fees for April and May of
12 2021 – both arising after entry of the Judgment.

13 **III. EVIDENCE**

14 The Judgment incorporated into Claim #3.

16 **IV. ISSUES**

17 1. Whether Deutsche Bank may supplement its claim with pre-judgment charges that
18 were not awarded in a final judgment entered in King County Superior Court under
19 case 15-2-19089-0 KNT.

20 2. Whether Deutsche Bank may supplement its Claim with additions to a Judgment
21 without complying with the requirements in the Judgment for making additions to the
22 Judgment.

23 **V. AUTHORITY AND ARGUMENT**

24 The present claim by Deutsche Bank arises out of a Judgment and Decree of

25
OBJECTION TO CLAIM

1 Foreclosure in King County Superior Court case 15-2-190890 KNT. This judgment in turn
2 arose from a contractual dispute arising from a contract entered into in Washington regarding
3 a note secured by a deed of trust on property located in Washington. The Claimant, Deutsche
4 Bank claims the right to enforce this note. Thus, the dispute was required to be decided under
5 Washington law.

6 Under Washington law, res judicata bars the relitigation of claims and issues that
7 were litigated or could have been litigated in a prior action. *Loveridge v. Fred Meyer, Inc.*,
8 125 Wn.2d 759, 763, 887 P.2d 898 (1995). In this case, the pre-judgment fees and charges
9 Claimant seeks to add to its claims were not awarded in the judgment that was entered. The
10 claimant is not now entitled to add these fees to the claim.

11 The Judgment itself also governs the terms of any additions to the judgment. In this
12 case, the Claimant has failed to go through the process mandated under the Judgment for
13 increases to the Judgment.

15 The following portions of the claim should be denied:

16 • Pre-Judgment Interest
17 • Pre-Judgment Escrow Advances
18 • Pre-Judgment Fees/Costs
19 • Post-Judgement Fees/Costs

20 November 4, 2022

21 /s/ Jason E Anderson
22 Jason E Anderson WSBA #32232
23 Attorney for Billie Jean Harris.,

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